

EXHIBIT "B"

1 testimony to the same is now dramatically different from her former
2 statements concerning Bambi Tyree:

3 "He's a victim as much as I am, and you want to
4 know who the fucking ring leaders are? Al, Leslie
5 and Bambi ok? And Everybody - they're getting off
6 fucking - because Bambi snitches her little ass
7 around and lies about whatever the fuck she
did..."

8 *Purser Investigator Statement,*
9 *Page 11, Lines 15-23*

10 In attempting to ascribe a motive for Purser to dismiss Tyree one
11 can only assume that dismissing Tyree would provide Purser with the
12 very affidavit that this Court suggested would be required to support
13 a motion for summary judgment in its November 9, 2006 Order denying
14 summary judgment as to liability.

15 During Purser's December 12, 2006 deposition, her attorney Darryl
16 Jones summed up the veracity, truthfulness and reliability of Purser's
17 testimony and undermined her credibility by stating:

18 "I don't see the link in the damage yet, unless
19 you're trying to undermine credibility of a crack
addict 15 years old at the time. That's fine if
you think that can happen, since a 15-year-old
crack addict has no credibility".

20 *Purser deposition, page 16*

21 Counsel's motion now rests on the credibility of Purser's sworn
22 affidavit replete with false allegations stemming from her daily life
23 as a 15 year old self proclaimed "crack" cocaine attic.

24 Boehm's investigation and discovery to date reveals the
25 following:

26 1. All of Purser's allegations regarding Boehm are disputed via
27 third party affidavits, deposition testimony, interviews and written
discovery;

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1 2. Purser has a prolonged history of drug abuse pre-dating her
2 alleged relationship with Boehm. Purser knew and obtained her drugs
3 from multiple sources including her mother Kathleen Purser and Bambi
4 Tyree. Purser admits to the existence of criminal drug convictions and
5 multiple instances of theft. Purser has exchanged sex for drugs with
6 numerous individuals and maintained relationships within a network of
7 drug dealers and drug addicts;

8 3. Bambi Tyree with the assistance of Sally Purser and others
9 with whom she was involved engaged in a plot to keep Mr. Boehm high
10 on "crack" cocaine, incoherent and in state of severe psychosis to
11 enable them to steal his property, cash, cars and too seek to gain
12 control over his financial resources;

13 4. Boehm never engaged in any sexual activity or conduct with
14 Sally Purser, never knowingly provided her with drugs, and was not
15 responsible for her drug addiction and behaviors including but not
16 limited to trading sex for drugs, theft of money and property, drug
17 possession and sales, and drug convictions.

18 Purser argues that Boehm should be held liable for her drug
19 addictions and her claimed psychological and physiological damages.

20 There exists genuine issues of fact and genuine issues as to the
21 inferences to be drawn from the facts. Where reasonable minds differ
22 on inferences arising from undisputed facts, the court should deny
23 summary judgment.

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II.

STATEMENT OF UNDISPUTED FACTS

The facts presented by sworn testimony, third party affidavits, interviews and written discovery to support the opposition to summary judgment are undisputed as follows:

6 1. Purser obtained "crack" cocaine and other drugs from numerous
7 sources, including but not limited to Bambi Tyree, Kathleen Purser,
8 Al Bolling, Leslie Williams, Jay Whaley, Carl Bucher, Kathleen
9 Purser's various drug connections and numerous other individuals
10 before, during and after the time period encompassing the alleged
11 actions of Boehm. See *Purser Deposition*, *Purser Investigator*
12 *Interview*, *Tina Arndt Declaration*, *Vince Blomfield Declaration*, *Erin*
13 *Axt Deposition Testimony*;

14 2. Purser smoked "crack" cocaine with her mother Kathleen Purser,
15 Bambi Tyree, Erin Axt, Carl Bucher, Al Bolling, Jay Whaley and
16 numerous individuals before, during and after the time period
17 encompassing the alleged actions of Boehm. See *Purser Deposition*,
18 *Purser Investigator Interview*, *Tina Arndt Declaration*, *Vince Blomfield*
19 *declaration*, *Erin Axt Deposition Testimony*;

20 3. Purser began smoking marijuana, snorting cocaine, using
21 ecstasy, and drinking alcohol as early as 12 years old. See *Purser*
22 *Deposition*;

23 4. Purser was suspended from junior highschool for drugs,
24 specifically ecstacy, prior to the time period encompassing the
25 alleged actions of Boehm. See *Purser Deposition*, *Purser Investigator*
26 *Statement*;

27 5. Purser admits to theft of money and automobiles from numerous
28 individuals including Boehm. Said actions were committed with Bambi

1 Tyree and others. See Purser Deposition, Purser Investigator
2 Statement, Purser Grand Jury testimony, Erin Axt Deposition Testimony;

3 6. Purser engaged in numerous acts of sex with older men and
4 young girls before, during and after the time period encompassing her
5 claims against Boehm. See Purser Deposition, Purser Investigator
6 Statement, Tina Arndt Declaration, Vince Blomfield Declaration, Purser
7 Grand Jury testimony, Erin Axt Deposition Testimony;

8 7. Purser traded sex for "crack" cocaine with numerous
9 individuals, including older men and drug dealers. In addition,
10 Purser's mother sold her to older men and drug dealers in exchange for
11 "crack" cocaine. Said acts occurred before, during and after the time
12 period encompassing her claims against Boehm. See Purser Deposition,
13 Purser Investigator Interview, Tina Arndt Declaration;

14 8. Purser, 16 years old, lived with Jay Whaley, an older man,
15 convicted drug dealer and escort service operator who paid for her
16 living expenses and provided her an unlimited source of "crack" cocaine
17 in exchange for sex during the time period encompassing her claims
18 against Boehm. See Purser Deposition, Purser Investigator Interview

19 9. Purser identifies a conspiracy by and between Tyree, Bolling
20 and Williams to keep Boehm high on "crack" cocaine and steal from him.
21 Purser further stated that Tyree tried to harm Boehm by tainting his
22 food and drugs in an effort to keep him incoherent and within her
23 control. Purser referred to tyree as the "ring leader". See Purser
24 Deposition, Purser Investigator Statement, Purser Grand Jury
25 Testimony, Vince Blomfield Declaration, Tina Arndt Declaration;

26 10. Bambi Tyree systematically gained control over Boehm by
27 providing him dirty "crack" cocaine that would cause sickness,
28 sleepiness, incoherence and an inability to coherently assess his

1 surroundings. Boehm's state of incoherence and inability to control
2 his surroundings was witnessed by numerous individuals. See *Tina Arndt*
3 *Declaration, Vince Blomfield Declaration, Purser Investigator*
4 *Statement;*

5 11. Tyree and others ensured that Boehm remained "high" from the
6 moment he awoke until the time he passed out, determining who she
7 would allow to be in the house and how she would use other young
8 girls, including Purser, to further try to control Mr. Boehm. See
9 *Purser Investigator Statement, Tina Arndt Declaration, Vince Blomfield*
10 *Declaration, Report of Gary A. Jacobsen, M.D.;*

11 12. Bambi Tyree abused Mr. Boehm both physically and
12 psychologically with threats of calling law enforcement and by
13 bringing other men to physically intimidate Mr. Boehm, by stealing his
14 personal property, cash, cars and then charging him to return the
15 property. See *Purser Investigator Statement, Tina Arndt Declaration,*
16 *Vince Blomfield Declaration, Erin Axt Deposition Testimony, Report of*
17 *Gary A. Jacobsen, M.D.;*

18 13. Boehm never engaged in any sexual activity or conduct with
19 Sally Purser, never knowingly provided her with drugs, and was not
20 responsible for her drug addiction and behaviors including trading sex
21 for drugs, theft, and drug convictions. See *Purser Deposition, Purser*
22 *Investigator Statement, Purser Grand Jury Testimony, Vince Blomfield*
23 *Declaration, Tina Arndt Declaration, Report of Gary A. Jacobsen, M.D.;*

24 14. Boehm's deteriorating mental and physical condition did
25 render him unable to engage in the alleged sexual activity complained
26 of. See *Tina Arndt Declaration, Vince Blomfield Declaration; Report*
27 *of Gary A. Jacobson, M.D.;*

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1 15. Bambi Tyree with the assistance of Sally Purser and others
2 with whom she was involved engaged in a plot to keep Mr. Boehm high
3 on "crack" cocaine to enable them to steal his property, cash, cars and
4 too seek to gain control over his financial resources. See *Purser*
5 *Investigator Statement, Purser Deposition, Tina Arndt Declaration,*
6 *Vince Blomfield Declaration, Erin Axt Deposition Testimony, Report of*
7 *Gary A. Jacobson, M.D.;*

8 16. Bambi Tyree was a self proclaimed "pimp" and bragged about
9 knowing every local drug dealer. Bambi Tyree obtained most of her
10 drugs from Leslie Williams who was her primary supplier and in turn
11 supplied drugs to Purser and countless others. See *Tina Arndt*
12 *Declaration, Vince Blomfield Declaration, Purser Investigator*
13 *Statement;*

14 17. Bambi Tyree is a career hustler who's scam was to identify
15 men with money and play the role of a girlfriend who traded sex for
16 drugs. Once the money was gone, so was Bambi Tyree. Bambi Tyree
17 befriended and used several young girls, including Sally Purser for
18 the purpose of promoting her scam. Tyree's scams were furthered
19 through physical intimidation, black mail and threats of calling law
20 enforcement. See *Vince Blomfield Declaration, Tina Arndt Declaration,*
21 *Sally Purser Investigator Statement;*

22 18. Boehm's extreme degree of mental mismanagement of
23 perceptions, emotions, impulses, judgments, etc., with resultant
24 irrational behaviors, is consistent with his pattern of use of
25 extremely high dose of crack cocaine during the period of time when he
26 is alleged to have knowingly and/or intentionally committed the
27 alleged acts. *Report of Gary A. Jacobsen, M.D.;*

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1 19. Boehm's total mental function impairments were so severe as
2 to prevent him from being able to act with knowledge and intent during
3 the period of time when he is alleged to have knowingly and/or
4 intentionally committed the alleged acts. *Report of Gary A. Jacobsen,*
5 *M.D.;*

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SUMMARY JUDGMENT STANDARDS

9 The issues to be considered on a motion for summary judgment are
10 not those set forth in the pleadings but are those presented by the
11 materials submitted in support of the summary judgment motion. *Yates*
12 *v. Transamerica Ins. Co., Inc.*, 928 F.2d 199, 202 (6th Cir. 1991)

In making its determination, however, the court must look to the evidence offered by the nonmoving party in the light most favorable to that party, must accept all justifiable inferences on the nonmoving party's behalf, and must reject any contrary evidence and inferences. See *Adickes v. S. H. Kress & Co.*, 398 U.S. 144, 158-59, 90 S. Ct. 1598, 26 L. Ed. 2d 142 (1970).

Overall, the nonmoving party needs to show that the record contains sufficient specific facts--by demonstrating that the moving party either ignored or mis-characterized relevant facts--such that there exists a genuine dispute of material fact. Raising alternate inferences, on the other hand, might be sufficient to defeat a motion for summary judgment. Because the court must draw all reasonable inferences in a light most favorable to the nonmoving party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250-51, 106 S. Ct. 2505, 91 L. Ed. 2d 202, 4 Fed. R. Serv. 3d 1041 (1986).

1 Moreover, not only must there be no genuine issue of fact, in
2 order for summary judgment to be granted there must also be no genuine
3 issue as to the inferences to be drawn from the facts. *World-Wide*
4 *Rights Ltd. Partnership v. Combe Inc.*, 955 F.2d 242 (4th Cir. 1992).
5 Where reasonable minds could differ on inferences arising from
6 undisputed facts, the court should deny summary judgment. *Anderson v.*
7 *Liberty Lobby, Inc.*, 477 U.S. 242, 248, 106 S. Ct. 2505, 91 L. Ed. 2d
8 202, 4 Fed. R. Serv. 3d 1041 (1986).

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IV**PLAINTIFF AGAIN INCORRECTLY RELIES ON THE PLEA AGREEMENT TO SUPPORT
HER ARGUMENT FOR LIABILITY**

12 This Court has already ruled that the Plea Agreement entered into
13 by Boehm does not impute liability as it relates to Sally Purser.

14 The Court's November 9, 2006 Order regarding plaintiff's first
15 motion for summary judgment, incorporated herein as Exhibit "A",
16 states, "Boehm's admissions in the criminal case are admissible, but
17 not conclusive in the present case". The court went on to state,
18 "While Boehm's conviction and admissions are strong evidence in
19 Purser's favor, standing alone, they do not fully establish
20 liability".

21 Purser's reliance on her own sworn affidavit and that of criminal
22 co-defendant and former civil defendant Bambi Tyree are replete with
23 false statements. Furthermore, the evidence presented by Boehm via
24 deposition testimony, third party affidavits, investigator statements
25 and medical evaluation dispute all of Purser's allegations creating
26 multiple triable issues of material fact.

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1 Purser has not made the requisite showing of liability in order
2 to gain summary judgment. There are triable issues of fact that must
3 be decided by a jury of her peers.

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v.

6 **BOEHM'S RESPONSES TO DISCOVERY CREATE GENUINE ISSUES OF MATERIAL**
7 **FACTS AS TO EACH AND EVERY ALLEGATION**

8 Josef Boehm's response to Purser's third set of discovery,
9 incorporated herein as Exhibit "B" contain specific denials to each
10 and every allegation set forth in Purser's complaint including but not
11 limited to the following:

12 1. Knowingly recruiting and enticing Purser to engage in
13 sex;

14 2. knowingly providing cocaine and illegal substances to
15 Purser;

16 3. that Purser became addicted to illegal substances
17 provided by Boehm;

18 4. forcing Purser to have sex with Boehm and others;

19 5. that he forced to Purser to solicit other juveniles for
20 the purpose of sex;

21 6. that he provided airline tickets to Purser and her
22 mother to prevent her from cooperating with a criminal
23 investigation.

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1 VI.
2**THIRD PARTY WITNESS TINA ARNDT'S DECLARATION CREATES GENUINE ISSUES
OF MATERIAL FACTS AS TO EACH AND EVERY ALLEGATION**

3 At her December 12, 2006 deposition, Sally Purser identifies Tina
4 Arndt as an individual who witnessed and can corroborate the alleged
5 acts of Boehm which support her claims.

6 Tina Arndt's sworn affidavit, incorporated herein as Exhibit "C",
7 disputes all of Purser's claims as follows:

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9 **1. LESLIE WILLIAMS PROVIDED DRUGS TO TYREE WHO IN TURN
PROVIDED TO OTHERS**

10 Arndt was familiar with all of Boehm's acquaintances, friends and
11 family. See Paragraph 4. She identifies Leslie Williams as a cocaine
12 dealer who sold crack cocaine to Mr. Boehm on a daily basis. He
13 provided drugs to Bambi Tyree who would in turn provide to others. See
14 Paragraph 7.

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16 **2. TYREE AND WILLIAMS PROVIDED "DIRTY" CRACK TO BOEHM IN
ORDER TO MAINTAIN CONTROL OVER BOEHM'S PERSON AND
PROPERTY**

17 Arndt states that Boehm was provided "dirty" crack cocaine by
18 Tyree and Williams. See Paragraph 8. The various affects resulting
19 from the drugs provided to Boehm included an obsessive desire for
20 total privacy and security which included drastic measures to keep
21 people out of his home. The "dirty" crack provided by Tyree and
22 Williams had aspects of opiate drug affects that would cause Boehm
23 sickness, sleepiness, incoherence and an inability to coherently
24 assess his surroundings See Paragraph 6 and 9.

25 Bambi Tyree overcame the free will of Mr. Boehm by ensuring he
26 remained high from the moment he awoke until the time he passed out.
27 Tyree determined who she would allow to be in the house and how she
28

1 would use other young girls to further try to control Mr. Boehm. Tyree
2 abused Mr. Boehm both physically and psychologically in order to steal
3 his personal property, cash and cars. See Paragraphs 11-13.

4 **3. BOEHM'S RESIDENCE WAS UNDER CONSTANT SIEGE BY TYREE,
5 PURSER AND THEIR COHORTS**

6 Arndt identifies people breaking out a window in the back
7 downstairs bedroom of Boehm's residence to give them a consistent
8 means of entering and leaving the Boehm home at will. See Paragraph
9 10.

10 **4. PURSER HAD MULTIPLE DRUG SOURCES AND EXCHANGED SEX
11 FOR DRUGS WITH NUMEROUS INDIVIDUALS**

12 Bambi Tyree befriended Sally Purser and her mother Kathleen
13 Purser. Arndt was aware that Tyree provided "crack" cocaine to Sally
14 Purser and was aware that Sally Purser's mother Kathleen was "pimping"
15 her out to drug dealers in exchange for "crack" cocaine. See paragraph
16 14.

17 **5. ARNDT DISPUTES PURSER'S ALLEGATIONS OF SEX WITH BOEHM**

18 Whenever Sally Purser was at Mr. Boehm's house she was almost
19 always with Arndt. Mr. Boehm trusted Arndt who in turn had his
20 permission to be in any area of his home. This gave her the
21 opportunity to become familiar with the daily activities and events
22 that were regularly taking place.

23 Arndt observed Sally Purser to be present at Mr. Boehm's house
24 on some occasions and can personally attest to the fact that at no
25 time did he ever engage in any sexual activity or conduct with her.

26 **6. BOEHM'S SEVERE PSYCHOSIS, LACK OF CONTROL OF THOSE AROUND HIM
27 AND INABILITY TO ENGAGE IN THE ALLEGED SEXUAL ACTIVITY**

28 Mr. Boehm seldom left his bedroom, often never went downstairs
and hardly ever knew who was in his house. With his degree of paranoia

1 it was almost impossible for him to deal with a number of people
2 present that he could not keep track of. *Paragraph 17*

3 Mr. Boehm often became afraid to stay in his own home for the
4 above reasons. He started moving from hotel to hotel because the size
5 of the room and the physical circumstances enabled him to know who was
6 present and to feel at least a minimally reduced paranoia over the
7 small surroundings to which he felt he had more control. *Paragraph 18*

8 Prior to starting to stay at hotels, Mr. Boehm, in an attempt to
9 clear his house of everyone in it, including but not limited to Bambi
10 Tyree and Sally Purser, actually stuffed and clogged the plumbing so
11 as to flood the entire downstairs portion of his house. He also
12 disconnected the heaters and notwithstanding all these efforts, Bambi
13 Tyree would still not leave. *Paragraph 19*

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**7. TYREE WITH THE ASSISTANCE OF PURSER AND OTHERS SCHEMED TO
STEAL AND CONTROL BOEHM'S PROPERTY, CASH, CARS AND FINANCIAL
RESOURCES**

15 Arndt observed Bambi Tyree with the assistance of Sally Purser
16 and others with whom she was involved engaged in a plot to keep Mr.
17 Boehm high on "crack" cocaine to enable them to steal his property,
18 cash, cars and too seek to gain control over his financial resources.
19 See *Paragraph 21*.

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VII.

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**THIRD PARTY WITNESS VINCE BLOMFIELD'S DECLARATION CREATES GENUINE
ISSUES OF MATERIAL FACTS AS TO EACH AND EVERY ALLEGATION**

22 Vince Blomfield's Declaration is incorporated herein as Exhibit
23 "D". Mr. Blomfield had a personal relationship with Bambi Tyree and
24 describes her as an experienced "crack" cocaine user. Tyree provided
25 Blomfield with "crack" cocaine on several occasions and smoked "crack"
26 cocaine with on several occasions. *Paragraph 2*

1. TYREE WAS A WELL KNOWN HUSTLER OF MEN WITH MONEY. PURSER CONTRIBUTED TO HER SCAMS

2. BLOMFIELD WAS A VICTIM OF TYREE'S SCAM

3. TYREE OVERCAME THE FREE WILL OF BOEHM IN ORDER TO STEAL HIS PERSONAL PROPERTY, CASH AND CONTROL HIS FINANCES

Mr. Blomfield has personal knowledge of the fact that Bambi Tyree ran the aforementioned scam on a number of individuals including Josef

1 Boehm. He was around Mr. Boehm during this period of time and had
2 conversations with him regarding Tyree's motives and actions.

3 Bambi Tyree overcame the free will of Mr. Boehm and began to
4 control his life. She began to make all of the decisions affecting the
5 day to day activities of Mr. Boehm. This would include ensuring he
6 remained high from the moment he awoke until the time he passed out,
7 determining who she would allow to be in the house and how she would
8 use other young girls to further try to control Mr. Boehm. Paragraphs
9 7-8

10 Mr. Blomfield witnessed Mr. Boehm trying desperately to get rid
11 of Tyree who in turn threatened to black mail Mr. Boehm. In addition
12 to her threats of black mail, Tyree demanded money from Mr. Boehm in
13 exchange for leaving his home.

14

15 **4. BOEHM'S SEVERE PSYCHOSIS AND LOSS OF CONTROL OF HIS
SURROUNDINGS**

16 In or around October, 2003, Mr. Blomfield stopped by Mr. Boehm's
17 residence. Bambi Tyree was present with a half a dozen girls. He
18 attempted to talk to Mr. Boehm, however, Bambi Tyree refused to let
19 Blomfield near him. Regina Moore and Tina Arndt were also present.
20 Bambi Tyree insulated Mr. Boehm from everyone as it was apparent that
21 she was afraid to lose control of him. Mr. Boehm appeared to be
22 incoherent and unaware of his surroundings. Paragraphs 9-10

23 Mr. Blomfield witnessed the dramatic effects the drugs had on
24 Boehm including an obsessive desire for total privacy and security.
25 This desire manifested itself in ways such as staying primarily in the
26 upstairs of his home, installing a deadbolt lock on his bedroom door
27 in the hope of preventing anyone from coming into his bedroom,
28 installing a sophisticated alarm system which was kept activated 24

1 hours a day for the purpose of keeping people out of his home and
2 certainly not for the purpose of keeping them trapped inside.

3 Paragraph 11

4 Mr. Blomfield witnessed Mr. Boehm's psychosis become dramatically
5 worse during his relationship with Bambi Tyree. With his degree of
6 paranoia it was almost impossible for him to deal with a number of
7 people present that he could not keep track of. On occasion, he would
8 hold himself up in hotel rooms and disassemble all of the electronic
9 equipment as a result of his severe paranoia. *Paragraph 13*

10 **5. PURSER'S INVOLVEMENT IN TYREE'S SCAM, ADMISSION OF DRUG
11 USE AND SEX WITH OLDER MEN**

12 During his relationship with Bambi Tyree, Mr. Blomfield Stayed
13 at Kathleen Purser's house for a short time. It was there that he met
14 Sally Purser for the first time. Mr. Blomfield was sleeping in the
15 bedroom when he was first approached by Sally Purser who inquired as
16 to whether he was "Bambi's boyfriend". Sally Purser explained that
17 upon meeting Bambi Tyree she smoked "crack" cocaine with her.

18 Sally Purser also told Mr. Blomfield about an incident in which
19 she, Bambi Tyree and a gentlemen named Tony Heffner got into a Jacuzzi
20 together. Sally went on to boast that Bambi Tyree convinced her to
21 have sex with him. During this conversation, Holly, a friend of Sally
22 Purser was in the room. It was apparent to Mr. Blomfield that Sally
23 Purser was attempting to obtain drugs and money from Mr. Blomfield in
24 exchange for sex. *Paragraph 16-17*

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VIII.

Sally Purser also confirmed the aforementioned conduct.

1 difficult...They were putting shit in his dope
 2 though, I know they were...The dope gets you high
 3 no matter what. I know they were putting shit in
 4 his food...Yeah, because Leslie and stuff would
 5 bring food over and it'd already be open and
 6 stuff, and I like remember one time-oh, wow, I
 7 don't know what the fuck it was sprayed with, but
 8 I about puked".

9 *Purser Investigator Statement*

10 Page 48, lines 23-25, page 49, lines 1-14

11

12 Boehm was being given unknown substances without his knowledge,
 13 which caused significant mental, emotional and physical impairments
 14 which prevented Boehm from being able to act in an intentional or
 15 knowing manner towards Purser as alleged in her complaint.

16

17 **2. PURSER'S CAUSES OF ACTION REQUIRE KNOWING AND INTENTIONAL
 18 CONDUCT BY BOEHM**

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20 Purser's complaint alleges causes of action all of which require
 21 elements of specific intent and knowing actions. Her allegations of a
 22 conspiracy require an agreement and an overt act in furtherance of the
 23 conspiracy. The overt acts depended on by Purser never happened and
 24 furthermore, could not have happened due to Boehm's state of severe
 25 psychosis and incoherence. Purser claims the following:

26

- 27 1. Boehm knowingly recruited Purser;
- 28 2. Boehm conspired with Tyree, Bolling and Williams to get
 Purser addicted to cocaine to control her and keep her
 within their grasp through threats and psychological
 coercion;
- 29 3. Boehm, Tyree, Bolling and Williams furthered their
 conspiracy by using illegal substances to control Purser
 and have sex with Purser;
- 30 4. Tyree would find drug dealers to supply Boehm with drugs he
 could use to entice Purser and keep her under his control;
- 31 5. Purser was forced through coercion and intimidation to
 labor directly for Boehm;
- 32 6. Purser labored, and endured Boehm's physical, verbal and
 sexual attacks because her will was completely overborne
 through the use of coercion, force and illegal substances

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provided by the defendants, with the intent of overriding Purser's will;

13 *Purser Investigator Statement,*
 Page 17, lines 22-25

VIII.

1 by a barrage of deposition testimony, statements, declarations and
2 evidence which rather than solidifying the motion for summary judgment
3 has undeniably and unequivocally established a very significant number
4 of material facts precluding this court from a finding of
5 liability.¹

6 Purser's complaint is largely dependant on conspiracy allegations
7 involving Bambi Tyree. Purser's statements identify Tyree as a "ring
8 leader" and a "snitch":

9
10 **"He's a victim as much as I am, and you want to
11 know who the fucking ring leaders are? Al, Leslie
12 and Bambi ok? And Everybody - they're getting off
13 fucking - because Bambi snitches her little ass
14 around and lies about whatever the fuck she
15 did..."**

16 *Purser Investigator Statement,*
17 *Page 11, Lines 15-23*

18
19 **"...Allen and Bambi-Allen and Bambi are the ones
20 that need to spend the rest of their fucking
21 lives in jail, and Bambi's going to get off scot
22 free because she snitched okay?"**

23 *Purser Investigator Statement,*
24 *Page 47, lines 18-21*

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28 ¹The manner in which the underlying criminal case was handled, given the information that should have been available during the criminal case and is being brought out in the depositions, declarations and motions in the civil case together with the paucity of any significant act directed against any of the alleged victims either at a trial or at the sentencing hearing may suggest and support grounds for a 18 U.S.C. §2255 motion. While counsel has not yet decided whether, when or how to pursue that issue lends compelling additional evidence to recognize that there are clearly disputed questions of fact and this is certainly not the kind of case that this court would like to be put to bed without a full and fair analysis of the true facts, the true inconsistencies and the myriad of questions of facts that must be decided to reach a proper ruling. On this record this defendant must not and should not be denied his day in court.

1 Purser's dismissal of Tyree as a defendant undermines the
2 legitimacy of her allegations in which she identified Tyree as the
3 "Ring Leader". The timing of the dismissal in relation to the filing
4 of Tyree's affidavit in support of summary judgment creates an
5 overriding inference to be drawn from the allegations set forth in the
6 affidavits of Tyree and Purser prohibiting a finding of summary
7 judgment.

8 XI

9 PURSUANT TO FEDERAL RULES OF CIVIL PROCEDURE, RULE 36 ALL
10 ADMISSIONS SERVED ON PURSER ON NOVEMBER 10, 2006 ARE DEEMED
ADMITTED DUE TO HER FAILURE TO RESPOND. THE ADMISSIONS ABSOLVE
BOEHM OF ALL LIABILITY FOR PURSER'S CLAIMS

11 Rule 36 of the Federal Rules of Civil Procedure states:

12 The matter is admitted unless, within
13 30 days after service of the request,
14 or within such shorter or longer time
15 as the court may allow or as the
16 parties may agree to in writing,
17 subject to Rule 29, the party to whom
18 the request is directed serves upon
19 the party requesting the admission a
20 written answer or objection addressed
21 to the matter, signed by the party or
22 by the party's attorney. If objection
23 is made, the reasons therefor shall be
24 stated.

25 On November 10, 2006, Boehm served his second set of discovery
26 on Purser's counsel Darryl Jones via facsimile and U.S. Mail.
27 Incorporated herein as Exhibit "G". The discovery requests were
28 attached to counsel Brett A. Greenfield's November 10, 2006 facsimile
correspondence to Darryl Jones, incorporated herein as Exhibit "H".
The aforementioned correspondence refers to the attached discovery
requests. The second set of discovery has a proper proof of service
attached.

1 On November 14, 2006, Darryl Jones responded to Mr. Greenfield's
2 November 10, 2006 correspondence via facsimile and U.S. mail thus
3 acknowledging receipt, Incorporated herein as Exhibit "I".

4 Purser's failed to respond or even serve objections. Boehm's
5 requested are deemed admitted by Purser which absolves Boehm of all
6 liability as to Purser's claims.

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8 **XI.**

9 **ERIN AXT'S DEPOSITION TESTIMONY CREATES GENUINE**
10 **ISSUES OF MATERIAL FACT**

11 Erin Axt's deposition taken on December 13, 2006, incorporated
12 herein as Exhibit "J" reveals that Erin Axt first smoked "crack"
13 cocaine with Sally Purser, provided by Purser, while at Purser's home.
14 *Deposition of Erin Axt, Pages 15-17.*

15 In addition, Bambi Tyree provided "crack" cocaine to Erin Axt.
16 *Deposition of Erin Axt, Page 17.* Erin Axt first snorted powder cocaine
17 with Sally Purser at Purser's home. She does not know where Purser
18 obtained the cocaine. *Deposition of Erin Axt. Pages 26, lines 22-25,*
19 *Page 27, Page 28, lines 1-5.*

20 Erin Axt would often smoke "crack" cocaine at Sally Purser's home
21 with Sally and Kathleen Purser. *Deposition of Erin Axt, Page 51, lines*
22 *2-21.*

23 On one occasion Erin Axt testified that Bambi Tyree, Sally Purser
24 and Erin Axt stole Boehm's Cadillac and took it for a joy ride. While
25 driving they were smoking "crack" cocaine. They refused to give the car
26 back to Boehm unless he gave them money. *Deposition of Erin Axt, Page*
27 *72, line 17 - page 74, line 14*

28

1 Erin Axt's testimony is consistent with the affidavits of Tina
2 Arndt and Vince Blomfield that depict Tyree and Purser's penchant for
3 smoking "crack" cocaine and providing to others.

4 Her testimony further supports the fact that Purser had multiple
5 sources in which to acquire drugs and did not become addicted as a
6 result of knowing Boehm. Furthermore, the episode in which Tyree and
7 Purser stole Boehm's car and demanded money in return further shows
8 their scam to take advantage of Boehm by stealing his money, cars, and
9 property.

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XI

11

PURSER'S DEPOSITION TESTIMONY AND INVESTIGATOR STATEMENTS ARE CONTRADICTORY AND CREATE MULTIPLE ISSUES OF DISPUTED MATERIAL FACT

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Purser has offered Investigator Statements, Grand Jury Testimony and Deposition Testimony as to each material allegation contained within her complaint. Many of the statements provided contradict and undermine her present allegations creating multiple issues of disputed material fact. Purser's Grand Jury Testimony and Deposition Testimony are incorporated herein as Exhibits "K" and "L" respectively.

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1. PURSER'S MOTIVATION FOR MONEY HAS RESULTED IN A CHANGE OF TESTIMONY

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Purser's motivation to acquire a financial benefit from Boehm is transparent and proven by her own contradictions. Even more revealing is the following excerpt taken from her December 12, 2006 deposition:

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Q. Now you have answered a number of questions this morning that I asked you by saying that, for example, about Mr. Boehm being the victim of Ms. Tyree and Mr. Bolling and Mr. Williams, by saying that's what you believed when you said those things in 2004. But am I correct in assuming that you're saying you no longer feel that way?

A. No, I do not any longer feel that way.

Q. Between that time and now you have filed a civil complaint, is that correct?

1 A. Yes, that is correct.
2 Q. And that civil complaint is for damages for money, is
that right?
3 A. Yes.
4 Q. Is the fact that you have filed a lawsuit for money
making various allegations that are different than
5 what you felt in 2004, the reason that you changed
your feeling?
6 A. The reason I filed the civil suit is because my
feelings changed.

7 See *Purser Deposition, page 89, 90*

8 **2. COMPARISON OF PURSER'S STATEMENTS TO HER MATERIAL ALLEGATIONS**

9 In addition to Purser's past statements previously set forth in
10 this opposition the following further illustrates the myriad of
11 material facts in dispute , A comparison of Purser's past and present
12 statements as they relate to the material allegations set forth in her
13 complaint are set forth as follows:

14 **a. Boehm Knowingly Recruited Purser**

15 Purser's relationship with tyree occurred before ever meeting
16 Josef Boehm. In fact, Purser testified that she was introduced to
17 Tyree at her mother's house when she was there to supply drugs. She
18 further states that Tyree was initially a friend of her mother. See
19 *Purser Deposition, Page 30*

20 As set forth through sworn affidavits, Bambi Tyree with the
21 assistance of Sally Purser and others with whom she was involved
22 engaged in a plot to keep Mr. Boehm high on "crack" cocaine, incoherent
23 and in state of severe psychosis to enable them to steal his property,
24 cash, cars and too seek to gain control over his financial resources.

25 **b. Purser's Addiction to Drugs as a Result of Boehm's
Controlling Her to Have Sex**

26 Purser began using drugs as early as age 12. She was introduced
27 to "crack" cocaine by her mother and continued a pattern of drug use

1 for many years resulting in a criminal drug conviction. Purser
2 obtained her drugs from multiple sources and in many instances traded
3 sex for drugs.

4 Purser first smoked marijuana at age 12. See *Purser Deposition*,
5 page 10.;

6 Purser was suspended from school at age for using ecstacy at age
7 15. See *Purser Deposition*, Page 13, 14;

8 Purser began drinking alcohol at age 14. See *Purser Deposition*,
9 Page 29;

10 Purser first smoked "crack" cocaine with her mother at age 15. See
11 *Purser Deposition*, Page 19, 20;

12 Purser smoked "crack" cocaine with an older man named Carl Bucher
13 and her mother at age 15. See *Purser Deposition*, Page 21, 22

14 Purser again smoked "crack" cocaine with Carl Bucher a few days
15 later. In addition she had sex with him in a hotel while "high" on
16 "crack" cocaine. See *Purser Deposition*, Page 22;

17 Purser admits that it was with Carl Bucher that she first "liked
18 the feeling" cocaine gave her. See *Purser Deposition*, Page 23;

19 Purser admits that Carl Bucher was the first person she traded
20 sex for money with. In addition she admitted that her mother traded
21 her for "crack" to her "drug associate" Gary "D". See *Purser*
22 *Investigator Statement*, Page 23, Lines 17-25, Page 24, Lines 1-5

23 Purser states that her mother smoked "crack" cocaine with her
24 "drug associate" Gary "D" on a regular basis. See *Purser Deposition*,
25 Page 37, 38;

26

1 Purser, while knowing Boehm, lived with a convicted drug dealer
2 and escort service owner named Jay Whaley. At the time Purser was 16
3 years old. Whaley paid for Purser's food and drugs in exchange for
4 sex. Whaley sold drugs to Purser's mother. See *Purser Deposition*, page
5 35, 37

6 Purser obtained "crack" cocaine from her mother when living with
7 her. See *Purser Deposition*, Page 69.

8 Purser was arrested and convicted for drug possession
9 approximately two years ago in Anchorage, Alaska. See *Purser*
10 *Deposition*, Page 27.

11 Purser's claim that Boehm was responsible for getting her
12 addicted to drugs in order to control her and have sex with her is
13 nonsensical as it ignores the fact that no one had control over
14 Purser. Purser was very adapt at finding multiple sources in which to
15 obtain various forms of drugs. Purser's need for drugs resulted in her
16 willingness to trade sex with multiple individuals, old and young.
17

18 The affidavits set forth in this opposition indicate that
19 Purser's need to get her hands on drugs resulted in a relationship
20 with Bambi Tyree to scam various men with money, including but not
21 limited to Tony Heffner, Carl Bucher and Vince Blomfield.

22 **c. Purser's Allegation That She Intimidated, Threatened and
23 a Victim of Involuntary Servitude**

24 Purser intimates that she was locked in Boehm's house and not
25 allowed to leave. She suggests that she was somehow held captive
26 through physical threat, psychological threat, innuendo and an alarm
27 system.
28

1 Purser admits to breaking into Boehm's house through a broken
2 window in a downstairs guest bedroom. See *Purser Deposition*, Page 83;

3 Purser admits that she could leave Boehm's home whenever she
4 wanted. See *Purser Deposition*, Page 84.

5 Purser stated that Boehm had no control over his own home and
6 attempted to make people leave to no avail. At times Boehm was scared
7 to tell people to leave for fear of what they might do to him. In
8 order to cope with the unwanted visitors he would simply lock himself
9 in his room. Purser went on to testify that everyone would sneak in
10 his house through the broken downstairs window. See *Boehm Deposition*,
11 Page 102-104

12 Purser stated about Boehm, "I liked him, I was comfortable with
13 him, I never felt threatened". See *Purser Investigator Interview*, Page
14 37, lines 3-7;

15

16 **d. Purser's Allegation of Being Provided Airline Tickets to
Avoid a Criminal Investigation.**

17 Purser testified that Boehm offered to help Kathleen further her
18 plan to move to Seattle after she lost her home due to a default in
19 mortgage payments. See *Purser Deposition*, Page 121

20

21 **e. Purser Admits To Her Involvement In Scam To Steal Money
From Carl Bucher**

22 In her deposition Purser confirms she made the following
23 statement "I was at my house and I woke up and Bambi was there. And
24 Carl, the guy that I had met Bambi through, was sleeping downstairs
25 in my mom's room, and he had his pants -- he had his pants off but
26 they were wrapped around his arm so nobody could take what was in his
27 pockets and Bambi and I had gotten his pants away from him and ended
28 up stealing \$2,000 from him and we left in his van that had \$30,000

1 in a suitcase in the back and we went to the Holiday Inn Hotel
2 downtown across from the Millennium Club." See *Purser Deposition*, Page
3 32.

4 **f. Purser's Past Fraudulent Sexual Assault Claims**

5 Purser testified that she lied about being sexually assaulted by
6 her uncle because she did not like him and he was too strict. See
7 *Purser Deposition*, Page 34-35.

8 Her previous false claims lends further credence to the argument
9 that her present claims are strictly money driven. An inference can be
10 drawn from her past false claims and contradictory testimony for the
11 purpose of assessing material facts in dispute in order to defeat
12 summary judgment.
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14 **XII**

15 **CONCLUSION**

16 For the foregoing reasons, Josef Boehm respectfully requests that
17 this Court deny Plaintiff's second motion for summary judgment as
18 there are numerous material facts in dispute.
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1 Submitted this 29th day of December, 2006

2 KENNER LAW FIRM

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By: _____ /s/ _____

5

David E. Kenner

6

California 41425

7

16000 Ventura Blvd.

8

Penthouse 1208

9

Encino, California 91436

10

11

By: _____ /s/ _____

12

Brett A. Greenfield

13

California 217343

14

16000 Ventura Blvd.

15

Penthouse 1208

16

Encino, California 91436

17

18

19

20

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22

23

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